

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TERENCE ALVIN JOHNSON,

Petitioner,

No. 09-cv-10395

vs.

Hon. Gerald E. Rosen

JEFFREY WOOD,

Respondent.

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ORDER DENYING EMERGENCY MOTION FOR HEARING

This matter is presently before the Court on Habeas Corpus Petitioner Terence Johnson's "Emergency Motion for Hearing with Emergency Entrance into Federal Witness Protection." In this motion, Petitioner complains about certain correction officers' actions with regard to his personal property, searches conducted on him and his property for contraband, grievances he filed with the MDOC, and "other crimes" committed against him during his incarceration. As relief, Petitioner seeks an injunctive order providing for his entrance into the Federal Witness Protection Program.

All of these "conditions of confinement" matters of which Petitioner complains are not cognizable in this habeas corpus action. *See Preiser v. Rodriguez*, 411 U.S. 475, 498–99, 93 S.Ct. 1827, 36 L.Ed.2d 439 (1973) (petitioner's complaints about the conditions of his confinement, as opposed to the constitutionality of his conviction are not cognizable in federal habeas corpus). *See also Kirby v. Dutton*, 794 F.2d 245, 248 (6th Cir.1986); *Hodges v. Bell*, 170 F. App'x. 389, 392 (6th Cir. 2006) (quoting *Nelson v.*

Campbell, 541 U.S. 637, 643, 124 S.Ct. 2117, 158 L.Ed.2d 924 (2004) (“claims that merely challenge the conditions of a prisoner’s confinement, whether the inmate seeks monetary or injunctive relief, fall outside of that core [of habeas corpus]”). *Kendrick v. Brunsman*, 2007 WL 4246206, at *2 (S.D. Ohio Nov.28, 2007) (“petitioner’s claims relating to the conditions of his confinement or treatment by prison officials are not ... properly considered in these habeas corpus proceedings”). Rather, “a prisoner complaining about the conditions of his confinement should bring suit under 42 U.S.C. § 1983.” *Young v. Martin*, 83 F. App’x 107, 108–09 (6th Cir.2003) (citing *Prieser*, 411 U.S. at 498–99); *Wright v. Lazaroff*, 643 F. Supp. 2d 971, 991–92 (S.D. Ohio 2009); *Austin v. Bell*, 927 F. Supp. 1058, 1066 (M.D. Tenn.1996).

Because the complaints Petitioner makes in his Emergency Motion are not cognizable in this habeas corpus action, Petitioner’s Motion [**Dkt. Nos. 39 and 40**] will be **DENIED**, without prejudice to Petitioner’s right to file a civil rights complaint raising these issues pursuant to 42 U.S.C. § 1983.

SO ORDERED.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: December 6, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 6, 2013, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5135